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*Attorneys for Sonos, Inc.*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA,  
SAN FRANCISCO DIVISION

SONOS, INC.,

*Plaintiff and Counter-defendant,*

v.

GOOGLE LLC,

*Defendant and Counter-claimant.*

Case No. 3:20-cv-06754-WHA

Consolidated with  
Case No. 3:21-cv-07559-WHA

**SONOS, INC.'S STATEMENT OF NO  
OPPOSITION TO SUR-REPLY**

Judge: Hon. William Alsup  
Courtroom: 12, 19th Floor  
Trial Date: May 8, 2023

1 Sonos respectfully submits this statement of no opposition to Google's motion for leave  
2 to file a response to Sonos's Reply. Dkt. 790. Last night at 6:30pm, counsel for Google emailed  
3 Sonos and demanded that Sonos provide its position on Google's motion for leave by 7:30pm.  
4 Counsel stated that "If we don't hear back by 8 pm pacific, we'll file as opposed." Counsel did  
5 not provide the proposed response for Sonos to consider and proceeded to file the motion.

6 Having now had the opportunity to review the response, Sonos does not oppose. While  
7 Google says that Sonos argues for the first time that "the figure on page 5 of Appendix A of the  
8 provisional application" discloses overlapping zone scenes, it is actually *Google* and its expert  
9 Dr. Schonfeld that first advanced that argument. For the Court's convenience, Sonos provides  
10 Dr. Schonfeld's testimony here. The testimony describes Fig. 7, which is the same as the figure  
11 on page 5 of Appendix A:

12 Q [by Mr. Pak]. So we're looking at a different figure from the  
13 patent. Now this is Figure 7 of the '966 patent. And can you identify  
what you've highlighted on this slide?

14 A [by Dr. Schonfeld]. So this particular figure shows up on the very  
15 top, not in red, just regular speakers that you can just play regularly,  
16 but then it has two zone scenes. One is the morning wake-up zone  
17 scene that we just created, that is the den, the bedroom, et cetera;  
and then another one which is Party Mode, which is all of the zones  
in the house, all of the speakers in the house.

18 Trial Tr. at 1338:10-19.

19 While Google now says that "party mode" does not necessarily include all zone players  
20 (e.g., smart speakers), Dkt. 790-2, Google's central theme at trial was that party mode is a zone  
21 scene that includes all zone players in a system. *E.g.* Trial Tr. at 237:1-7 (Google's opening  
22 statement describing party mode: "you could group all the speakers together in a party mode,  
23 play all the music throughout the house and it was saved."). In Sonos's view, Google's response  
24 is yet another instance of Google taking inconsistent positions depending on which argument it is  
25 trying to advance. *E.g.*, May 24, 2023 Trial Tr. 2016:5-14 (Court noting Google's inconsistent  
26 positions on invalidity and infringement). Because the disclosure in Fig. 7 is just one of several  
27 independent bases for finding written description support for overlapping zone scenes, *see* Dkt.  
28 789 at 4 and Dkt. 723 at 24-32, Sonos does not oppose Google's motion for leave.

1 Dated: June 1, 2023

2 ORRICK HERRINGTON & SUTCLIFFE LLP  
3 *and*  
4 LEE SULLIVAN SHEA & SMITH LLP

5 By: /s/ Clement Seth Roberts

6 Clement Seth Roberts

7 *Attorneys for Sonos, Inc.*  
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